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suitability, in connection with an application for a permit to construct a utilization facility which is subject to § 51.20(b) of this chapter and is of the type specified in § 50.21(b) (2) or (3) or § 50.22 of this chapter or is a testing facility.

[49 FR 9401, Mar. 12, 1984]

§ 2.601 Applicability of other sections.

The provisions of subparts A and G relating to applications for construction permits and proceedings thereon apply, respectively, to applications and proceedings in accordance with this subpart, except as specifically provided otherwise by the provisions of this subpart.

§ 2.602 Filing fees.

Each application which contains a request for early review of site suitability issues under the procedures of this subpart shall be accompanied by any fee required by § 50.30(e) and part 170 of this chapter.

§ 2.603 Acceptance and docketing of application for early review of site suitability issues.

(a) Each part of an application submitted in accordance with § 2.101(a–1) of this part will be initially treated as a tendered application. If it is determined that any one of the parts as described in § 2.101(a–1) is incomplete and not acceptable for processing, the Director of Nuclear Reactor Regulation will inform the applicant of this determination and the respects in which the document is deficient. Such a determination of completeness will generally be made within a period of thirty (30) days.

(b)(1) The Director of Nuclear Reactor Regulation will accept for docketing an application for a construction permit for a utilization facility which is subject to § 51.20(b) of this chapter and is of the type specified in § 50.21(b) (2) or (3) or § 50.22 or is a testing facility where part one of the application as described in § 2.101(a–1) is complete. Part one of any application will not be considered complete unless it contains proposed findings as required by § 2.101(a–1)(1)(i) and unless it describes the applicant's site selection process, specifies the extent to which that process

involves the consideration of alternative sites, explains the relationship between that process and the application for early review of site suitability issues, and briefly describes the applicant's long-range plans for ultimate development of the site. Upon assignment of a docket number, the procedures in § 2.101(a) (3) and (4) relating to formal docketing and the submission and distribution of additional copies of the application shall be followed.

(2) Additional parts of the application will be docketed upon a determination by the Director of Nuclear Reactor Regulation that they are complete.

(c) If part one of the application is docketed, the Director of Nuclear Reactor Regulation will cause to be published in the FEDERAL REGISTER and send to the Governor or other appropriate official of the State in which the site is located, a notice of docketing of the application which states the purpose of the application, states the location of the proposed site, states that a notice of hearing will be published, requests comments within 120 days or such other time as may be specified on the initiation or outcome of an early site review from Federal, State, and local agencies and interested persons, and in the case of applications filed under section 103 of the Act, states that a person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views in accordance with a subsequent notice that will be published in the FEDERAL REGISTER. In the case of a nuclear power reactor, such subsequent notice will be published following submission of the information required by § 50.33a.

[42 FR 22885, May 5, 1977, as amended at 49 FR 9401, Mar. 12, 1984]

§ 2.604 Notice of hearing on application for early review of site suitability issues.

(a) Where an applicant for a construction permit for a utilization facility subject to this subpart requests an early review and hearing and an early partial decision on issues of site suitability pursuant to § 2.101(a–1), the provisions in the notice of hearing setting

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forth the matters of fact and law to be considered, as required by § 2.104, shall be modified so as to relate only to the site suitability issue or issues under review.

(b) After docketing of part two of the application, as provided in §§ 2.101(a-1) and 2.603, a supplementary notice of hearing will be published pursuant to § 2.104 with respect to the remaining unresolved issues in the proceeding within the scope of § 2.104. Such supplementary notice of hearing will provide that any person whose interest may be affected by the proceeding and who desires to participate as a party in the resolution of the remaining issues shall file a petition for leave to intervene pursuant to § 2.714 within the time prescribed in the notice. Such supplementary notice will also provide appropriate opportunities for participation by a representative of an interested state under § 2.715(c) and for limited appearances pursuant to § 2.715(a).

(c) Any person who was permitted to intervene as a party pursuant to the initial notice of hearing on site suitability issues and who was not dismissed or did not withdraw as a party may continue to participate as a party to the proceeding with respect to the remaining unresolved issues, provided that within the time prescribed for filing of petitions for leave to intervene in the supplementary notice of hearing, he files a notice of his intent to continue as a party, along with a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which he wishes to continue to participate as a party and setting forth with particularity the basis for his contentions with regard to each such aspect or aspects. A party who files a non-timely notice of intent to continue as a party may be dismissed from the proceeding, absent a determination that the party has made a substantial showing of good cause for failure to file on time, and with particular reference to the factors specified in §§ 2.714(a) (1) through (4) and 2.714(d). The notice will be ruled upon by the Commission or atomic safety and licensing board designated to rule on petitions for leave to intervene.

(d) To the maximum extent practicable, the membership of the atomic safety and licensing board designated to preside in the proceeding on the remaining unresolved issues pursuant to the supplemental notice of hearing will be the same as the membership designated to preside in the initial notice of hearing on site suitability issues.

§ 2.605 Additional considerations.

(a) The Commission will not conduct more than one review of site suitability issues with regard to a particular site prior to filing and review of part two of the application described in § 2.101(a-1) of this part.

(b) The Commission, upon its own initiative, or upon the motion of any party to the proceeding filed at least sixty (60) days prior to the date of the commencement of the evidentiary hearing on site suitability issues, may decline to initiate an early hearing or render an early partial decision on any issue or issues of site suitability:

(1) In cases where no partial decision on the relative merits of the proposed site and alternative sites under subpart A of part 51 is requested, upon determination that there is a reasonable likelihood that further review would identify one or more preferable alternative sites and the partial decision on one or more site suitability issues would lead to an irreversible and irretrievable commitment of resources prior to the submittal of the remainder of the information required by § 50.30(f) of this chapter that would prejudice the later review and decision on such alternative sites; or

(2) In cases where it appears that an early partial decision on any issue or issues of site suitability would not be in the public interest considering (i) the degree of likelihood that any early findings on those issues would retain their validity in later reviews, (ii) the objections, if any, of cognizant state or local government agencies to the conduct of an early review on those issues, and (iii) the possible effect on the public interest and the parties of having an early, if not necessarily conclusive, resolution of those issues.

[42 FR 22885, May 5, 1977, as amended at 49 FR 9401, Mar. 12, 1984]